STATUTORY RULES OF NORTHERN IRELAND

2009 No. 398

FOOD

The Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) Regulations (Northern Ireland) 2009

Made - - - -	*30th November 2009*
Coming into operation	*1st January 2010*

The Department of Health, Social Services and Public Safety(**1**) makes the following Regulations in exercise of the powers conferred by Articles 15(1)(a) and (f), 16(1) and (2), 25(1)(a) and (3) and 47(2) of the Food Safety (Northern Ireland) Order 1991(**2**) as read with paragraph 1A of Schedule 2 to the European Communities Act 1972 (**3**).

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Department of Health, Social Services and Public Safety that it is expedient for any reference to the Annex to Commission Regulation (EC) No. 953/2009 on substances that may be added for specific nutritional purposes in foods for particular nutritional uses(**4**) to be construed as a reference to that Annex as amended from time to time.

In accordance with Article 47(3A) of the Food Safety (Northern Ireland) Order 1991, the Department of Health, Social Services and Public Safety has had regard to relevant advice given by the Food Standards Agency.

As required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety(**5**) there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

(**1**) Formerly the Department of Health and Social Services; see S.I. 1999/283 (N.I.1) Article 3(6)
(**2**) S.I. 1991/762 (N.I.7) as amended by S.I. 1996/1663 (N.I.12), paragraphs 26 to 42 of Schedule 5 and Schedule 6 to the Food Standards Act 1999 c.28 and S.R. 2004 Nos. 482 and 505
(**3**))1972 c.68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (2006 c.51)
(**4**) OJ No. L269, 14.10.2009, p.9
(**5**) OJ No. L31, 1.2.2002, p.1, as last amended by Regulation (EC) 596/2009 of the European Parliament and of the Council adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny: Adaptation to the regulatory procedure with scrutiny – Part Four (OJ No. L188, 18.7.2009, p.14)

Citation and commencement

1. These Regulations may be cited as the Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) Regulations (Northern Ireland) 2009 and come into operation on 1st January 2010.

Interpretation

2.—(1) In these Regulations—

"the Commission Regulation" means Commission Regulation (EC) No. 953/2009 on substances that may be added for specific nutritional purposes in foods for particular nutritional uses;

"the Order" means the Food Safety (Northern Ireland) Order 1991; and

"specified provision" means any provision of the Commission Regulation that is specified in Column 1 of the Schedule and whose subject-matter is described in Column 2 of the Schedule.

(2) Subject to paragraph (3), any expression other than one defined in paragraph (1) that is used both in these Regulations and in the Order has the meaning it bears in the Order.

(3) Any expression used both in these Regulations and in the Commission Regulation has the meaning that it bears in the Commission Regulation.

(4) In these Regulations any reference to the Annex to the Commission Regulation is a reference to that Annex as amended from time to time.

(5) The Interpretation Act (Northern Ireland) 1954(**6**) shall apply to these Regulations as it applies to an Act of the Assembly.

Offences, penalties and execution and enforcement

3.—(1) Any person who contravenes any of the specified provisions shall be guilty of an offence.

(2) A person guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) Each district council shall execute and enforce these Regulations within its district.

Application of various Articles of the Food Safety (Northern Ireland) Order 1991

4. The following provisions of the Order shall apply for the purposes of these Regulations with the modification that any reference in those provisions to the Order or Part thereof shall be construed as a reference to these Regulations—

(a) Article 4 (presumptions that food intended for human consumption);

(b) Article 19 (offences due to fault of another person);

(c) Article 20 (defence of due diligence), as it applies for the purpose of Articles 13 or 14;

(d) Article 30(8) (which relates to documentary evidence);

(e) Article 34(1) (obstruction etc. of officers);

(f) Article 34(2), with the modification that the reference to "any such requirement as is mentioned in paragraph (1)(b)" shall be deemed to be a reference to any such requirement as is mentioned in Article 34(1)(b) as applied by paragraph (e);

(g) Article 36(1) (punishment of offences), in so far as it relates to offences under Article 34(1) as applied by paragraph (e); and

(**6**) 1954 c.33 (N.I.)